

I.C.R. 10. Arraignment on Indictment or Information

Idaho Criminal Rule 10. Arraignment on Indictment or Information.

(a) In general. After an indictment or an information has been filed with the district court, the defendant must be arraigned thereon by the court. The defendant must appear in person at such arraignment. The arraignment shall take place within thirty (30) days following the filing of an information. If an indictment has been filed, the arraignment shall take place:

(1) if a summons has been issued following the indictment, within thirty (30) days of service of the summons;

(2) if a warrant has been issued following the indictment, and if the defendant is not in custody in the county in which the indictment is filed, within thirty (30) days of the defendant's initial appearance in the county issuing the indictment;

(3) in all other cases, within thirty (30) days of the filing of the indictment.

(b) Right to counsel. If the defendant appears for arraignment without counsel, before arraigned, the defendant must be informed by the court that it is defendant's right to have counsel either of defendant's own selection, or if indigent, by court appointment. The defendant must be asked if defendant desires counsel and if defendant is able to provide such counsel. If the defendant desires counsel and is found to be a indigent person as defined by section 19-854, Idaho Code, the court shall appoint counsel to represent the defendant. No proceedings may take place prior to the appointment of counsel or until the defendant has had a reasonable period of time to obtain counsel, or unless the defendant waives the right to counsel.

(c) Arraignment. Arraignment shall be conducted in open court and shall consist of reading the indictment or information to the defendant or stating to the defendant the substance of the charge and calling on the defendant to plead thereto. The defendant may waive the reading of the indictment or information. The defendant shall be given a copy of the indictment or information before the defendant is called upon to plead. The defendant must be informed that if the name which appears on the indictment or information is not defendant's true name, the defendant must then declare defendant's true name or be proceeded against by the name in the indictment or information. If on the arraignment the defendant requires time to enter a plea, the defendant must be allowed a reasonable time, not less than one (1) day, within which to answer the indictment or information.

(d) Method of securing defendant's appearance.

(1) When the defendant's appearance is necessary, and the defendant is in custody, the court may direct the officer who has custody of the defendant to produce the defendant.

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(2) If the defendant is at liberty on defendant's own recognizance or on bail pursuant to a court order issued in the same criminal action, the prosecuting attorney must, upon at least three (3) days' notice to the defendant and to defendant's attorney, notify the defendant and defendant's attorney that an information or indictment has been filed against the defendant and the time and place set before the court for arraignment. Notice shall be given to the defendant either in person or by mail at the defendant's last known address.

(3) If the defendant, who is at liberty on defendant's own recognizance or on bail pursuant to a previous court order issued in that same criminal action, does not appear to be arraigned, the court, in addition to the forfeiture of the undertaking or bail, may issue a bench warrant for defendant's arrest. Upon taking the defendant into custody pursuant to such bench warrant, the executing peace officer must, without unnecessary delay, bring the defendant into such district court for arraignment.

(Adopted December 27, 1979, effective July 1, 1980; amended June 20, 2013, effective July 1, 2013; amended March 9, 2015, effective July 1, 2015.)

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